

EXECUTIVE SUMMARY - ENFORCEMENT MATTER Page 1 of 3
DOCKET NO.: 2008-0255-MSW-E **TCEQ ID:** RN105231880 **CASE NO.:** 35370
RESPONDENT NAME: Friedman Recycling of El Paso, LP

ORDER TYPE:		
<input checked="" type="checkbox"/> 1660 AGREED ORDER	<input type="checkbox"/> FINDINGS AGREED ORDER	<input type="checkbox"/> FINDINGS ORDER FOLLOWING SOAH HEARING
<input type="checkbox"/> FINDINGS DEFAULT ORDER	<input type="checkbox"/> SHUTDOWN ORDER	<input type="checkbox"/> IMMINENT AND SUBSTANTIAL ENDANGERMENT ORDER
<input type="checkbox"/> AMENDED ORDER	<input type="checkbox"/> EMERGENCY ORDER	
CASE TYPE:		
<input type="checkbox"/> AIR	<input type="checkbox"/> MULTI-MEDIA (check all that apply)	<input type="checkbox"/> INDUSTRIAL AND HAZARDOUS WASTE
<input type="checkbox"/> PUBLIC WATER SUPPLY	<input type="checkbox"/> PETROLEUM STORAGE TANKS	<input type="checkbox"/> OCCUPATIONAL CERTIFICATION
<input type="checkbox"/> WATER QUALITY	<input type="checkbox"/> SEWAGE SLUDGE	<input type="checkbox"/> UNDERGROUND INJECTION CONTROL
<input checked="" type="checkbox"/> MUNICIPAL SOLID WASTE	<input type="checkbox"/> RADIOACTIVE WASTE	<input type="checkbox"/> DRY CLEANER REGISTRATION

SITE WHERE VIOLATION(S) OCCURRED: Friedman Recycling of El Paso, 5835 Wren Avenue, El Paso, El Paso County

TYPE OF OPERATION: Municipal solid waste recycling facility

SMALL BUSINESS: ☒ Yes ☐ No

OTHER SIGNIFICANT MATTERS: There are no complaints. There is no record of additional pending enforcement actions regarding this facility location.

INTERESTED PARTIES: No one other than the ED and the Respondent has expressed an interest in this matter.

COMMENTS RECEIVED: The *Texas Register* comment period expired on August 18, 2008. No comments were received.

CONTACTS AND MAILING LIST:

TCEQ Attorney/SEP Coordinator: None

TCEQ Enforcement Coordinator: Mr. Clinton Sims, Enforcement Division, Enforcement Team 7, MC 128, (512) 239-6933; Mr. Bryan Sinclair, Enforcement Division, MC 219, (512) 239-2171

Respondent: Mr. David Friedman, Vice President, Friedman Recycling of El Paso, LP, 3640 West Lincoln Street, Phoenix, Arizona 85009

Respondent's Attorney: Not represented by counsel on this enforcement matter

VIOLATION SUMMARY CHART:

VIOLATION INFORMATION	PENALTY CONSIDERATIONS	CORRECTIVE ACTIONS TAKEN/REQUIRED
<p>Type of Investigation: <input type="checkbox"/> Complaint <input checked="" type="checkbox"/> Routine <input type="checkbox"/> Enforcement Follow-up <input type="checkbox"/> Records Review</p> <p>Date(s) of Complaints Relating to this Case: None</p> <p>Date of Investigation Relating to this Case: December 4, 2007</p> <p>Date of NOV/NOE Relating to this Case: January 4, 2008 (NOE)</p> <p>Background Facts: This was a routine investigation.</p> <p>WASTE</p> <p>1) Failure to establish and maintain financial assurance for the closure of a recycling facility that stores combustible material (plastics, newspaper and cardboard) outdoors. Specifically, the Respondent did not have financial assurance at the time of the investigation [30 TEX. ADMIN. CODE §§ 37.921 and 328.5(d)].</p> <p>2) Failure to have a fire prevention and suppression plan. Specifically, the Respondent managed combustible materials (plastic, newspaper and cardboard) and did not have a fire prevention and suppression plan at the time of the investigation [30 TEX. ADMIN. CODE § 328.5(h)].</p> <p>3) Failure to submit a written closure cost estimate to the TCEQ. Specifically, the Respondent did not submit a written closure cost estimate prior to beginning operations [30 TEX. ADMIN. CODE § 328.5(c)].</p> <p>4) Failure to obtain a permit, registration or alternative compliance for the processing of recyclable material that contains more than incidental amounts of non-recyclable waste. Specifically, the Respondent has processed recyclable material that contained approximately 20% non-recyclable waste since the operations</p>	<p>Total Assessed: \$13,872</p> <p>Total Deferred: \$2,774 <input checked="" type="checkbox"/> Expedited Settlement <input type="checkbox"/> Financial Inability to Pay</p> <p>SEP Conditional Offset: \$0</p> <p>Total Paid (Due) to General Revenue: \$423 (remaining \$10,675 due in 35 monthly payments of \$305 each)</p> <p>Site Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Person Compliance History Classification <input type="checkbox"/> High <input checked="" type="checkbox"/> Average <input type="checkbox"/> Poor</p> <p>Major Source: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No</p> <p>Applicable Penalty Policy: September 2002</p>	<p>Corrective Actions Taken:</p> <p>The Executive Director recognizes that the Respondent submitted to the TCEQ an acceptable closure cost estimate on February 28, 2008.</p> <p>Ordering Provisions:</p> <p>The Order will require the Respondent to:</p> <p>a. Within 60 days after the effective date of this Agreed Order:</p> <p>i. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility;</p> <p>ii. Develop and implement a fire prevention and suppression plan that shall be made available to the local fire prevention authority having jurisdiction over the Facility for review and coordination;</p> <p>iii. Obtain a permit, registration or alternative compliance for the processing of recyclable material that contains more than incidental amounts of non-recyclable waste; and</p> <p>b. Within 75 days after the effective date of this Agreed Order, submit written certification and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions a.i. through a.iii.</p>

RESPONDENT NAME: Friedman Recycling of El Paso, LP
DOCKET NO.: 2008-0255-MSW-E

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began on April 27, 2007 [30 TEX. ADMIN CODE § 330.7(a)].		
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Additional ID No(s): N/A



Policy Revision 2 (September 2002)

Penalty Calculation Worksheet (PCW)

PCW Revision January 29, 2008

TCEQ

DATES

Assigned
PCW7-Jan-2008
14-Feb-2008

Screening

8-Feb-2008

EPA Due

RESPONDENT/FACILITY INFORMATION

Respondent: Friedman Recycling of El Paso, LP
 Reg. Ent. Ref. No.: RN105231880
 Facility/Site Region: 6-El Paso

Major/Minor Source: Minor

CASE INFORMATION

Enf./Case ID No.: 35370
 Docket No.: 2008-0255-MSW-E
 Media Program(s): Municipal Solid Waste
 Multi-Media:
 Admin. Penalty \$ Limit Minimum: \$0 Maximum: \$10,000

No. of Violations: 4
 Order Type: 1660
 Enf. Coordinator: Clinton Sims
 EC's Team: Enforcement Team 7

Penalty Calculation Section

TOTAL BASE PENALTY (Sum of violation base penalties)

Subtotal 1: \$12,500

ADJUSTMENTS (+/-) TO SUBTOTAL 1

Subtotals 2-7 are obtained by multiplying the Total Base Penalty (Subtotal 1) by the indicated percentage.

Compliance History: 2% Enhancement Subtotals 2, 3, & 7: \$250

Notes: The Respondent received one NOV without same or similar violations during the past five years.

Culpability: No 0% Enhancement Subtotal 4: \$0

Notes: The Respondent does not meet the culpability criteria.

Good Faith Effort to Comply: 0% Reduction Subtotal 5: \$0

Before NOV: Extraordinary
 Ordinary
 N/A: X (mark with x)
 NOV to EDPRP/Settlement Offer

Notes: The Respondent does not meet the good faith criteria.

Total EB Amounts: \$1,615
 Approx. Cost of Compliance: \$11,372
 0% Enhancement* Subtotal 6: \$0
 *Capped at the Total EB \$ Amount

SUM OF SUBTOTALS 1-7

Final Subtotal: \$12,750

OTHER FACTORS AS JUSTICE MAY REQUIRE

9%

Adjustment: \$1,122

Reduces or enhances the Final Subtotal by the indicated percentage.

Notes: Recommended adjustment to capture the avoided cost benefit associated with violation no. 1.

Final Penalty Amount: \$13,872

STATUTORY LIMIT ADJUSTMENT

Final Assessed Penalty: \$13,872

DEFERRAL

20%

Reduction Adjustment: -\$2,774

Reduces the Final Assessed Penalty by the indicated percentage. (Enter number only; e.g. 20 for 20% reduction.)

Notes: Deferral offered for expedited settlement.

PAYABLE PENALTY

\$11,098

Screening Date 8-Feb-2008

Docket No. 2008-0255-MSW-E

PCW

Respondent Friedman Recycling of El Paso, LP

Policy Revision 2 (September 2002)

Case ID No. 35370

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN105231880

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Compliance History Worksheet

>> Compliance History Site Enhancement (Subtotal 2)

Component	Number of...	Enter Number Here	Adjust.
NOVs	Written NOVs with same or similar violations as those in the current enforcement action (number of NOVs meeting criteria)	0	0%
	Other written NOVs	1	2%
Orders	Any agreed final enforcement orders containing a denial of liability (number of orders meeting criteria)	0	0%
	Any adjudicated final enforcement orders, agreed final enforcement orders without a denial of liability, or default orders of this state or the federal government, or any final prohibitory emergency orders issued by the commission	0	0%
Judgments and Consent Decrees	Any non-adjudicated final court judgments or consent decrees containing a denial of liability of this state or the federal government (number of judgments or consent decrees meeting criteria)	0	0%
	Any adjudicated final court judgments and default judgments, or non-adjudicated final court judgments or consent decrees without a denial of liability, of this state or the federal government	0	0%
Convictions	Any criminal convictions of this state or the federal government (number of counts)	0	0%
Emissions	Chronic excessive emissions events (number of events)	0	0%
Audits	Letters notifying the executive director of an intended audit conducted under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which notices were submitted)	0	0%
	Disclosures of violations under the Texas Environmental, Health, and Safety Audit Privilege Act, 74th Legislature, 1995 (number of audits for which violations were disclosed)	0	0%
Please Enter Yes or No			
Other	Environmental management systems in place for one year or more	No	0%
	Voluntary on-site compliance assessments conducted by the executive director under a special assistance program	No	0%
	Participation in a voluntary pollution reduction program	No	0%
	Early compliance with, or offer of a product that meets future state or federal government environmental requirements	No	0%

Adjustment Percentage (Subtotal 2) 2%

>> Repeat Violator (Subtotal 3)

No

Adjustment Percentage (Subtotal 3) 0%

>> Compliance History Person Classification (Subtotal 7)

Average Performer

Adjustment Percentage (Subtotal 7) 0%

>> Compliance History Summary

Compliance
History
Notes

The Respondent received one NOV without same or similar violations during the past five years.

Total Adjustment Percentage (Subtotals 2, 3, & 7) 2%

Screening Date 8-Feb-2008

Docket No. 2008-0255-MSW-E

PCW

Respondent Friedman Recycling of El Paso, LP

Policy Revision 2 (September 2002)

Case ID No. 35370

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN105231880

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 1

Rule Cite(s)

30 Tex. Admin. Code §§ 37.921 and 328.5(d)

Violation Description

Failed to establish and maintain financial assurance for the closure of a recycling facility that stores combustible material (plastics, newspaper and cardboard) outdoors. Specifically, the Respondent did not have financial assurance at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

66 Number of violation days

mark only one
with an x

daily	
monthly	
quarterly	
semiannual	
annual	x
single event	

Violation Base Penalty \$1,000

One annual event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$1,178

Violation Final Penalty Total \$1,110

This violation Final Assessed Penalty (adjusted for limits) \$1,110

Economic Benefit Worksheet**Respondent** Friedman Recycling of El Paso, LP**Case ID No.** 35370**Reg. Ent. Reference No.** RN105231880**Media** Municipal Solid Waste**Violation No.** 1

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]	\$1,122	27-Apr-2007	4-Dec-2007	1.0	\$56	\$1,122	\$1,178
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Estimated cost of obtaining financial assurance for the Facility. Date Required is the beginning date of the violation and the Final Date is the investigation date.

Approx. Cost of Compliance

\$1,122

TOTAL

\$1,178

Screening Date 8-Feb-2008

Docket No. 2008-0255-MSW-E

PCW

Respondent Friedman Recycling of El Paso, LP

Policy Revision 2 (September 2002)

Case ID No. 35370

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN105231880

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 2

Rule Cite(s) 30 Tex. Admin. Code § 328.5(h)

Violation Description

Failed to have a fire prevention and suppression plan. Specifically, the Respondent managed combustible materials (plastic, newspaper and cardboard) and did not have a fire prevention and suppression plan at the time of the investigation.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

Release	Harm		
	Major	Moderate	Minor
Actual			
Potential	x		

Percent 25%

>> Programmatic Matrix

Falsification			
	Major	Moderate	Minor

Percent 0%

Matrix Notes

Human health or the environment will or could be exposed to significant amounts of pollutants which would exceed protective levels.

Adjustment \$7,500

\$2,500

Violation Events

Number of Violation Events 3

66 Number of violation days

mark only one with an x	daily	
	monthly	x
	quarterly	
	semiannual	
	annual	
	single event	

Violation Base Penalty \$7,500

Three monthly events are recommended from the December 4, 2007 investigation date to the February 8, 2008 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$217

Violation Final Penalty Total \$8,323

This violation Final Assessed Penalty (adjusted for limits) \$8,323

Economic Benefit Worksheet**Respondent** Friedman Recycling of El Paso, LP**Case ID No.** 35370**Reg. Ent. Reference No.** RN105231880**Media** Municipal Solid Waste**Violation No.** 2

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs				0.0	\$0	n/a	\$0
Other (as needed)	\$5,000	4-Dec-2007	16-Oct-2008	0.9	\$217	n/a	\$217

Notes for DELAYED costs

Estimated cost to submit an acceptable site specific fire prevention and suppression plan. The Date Required is the investigation date and the Final Date is the expected date of compliance.

Avoided Costs**ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)**

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs**Approx. Cost of Compliance**

\$5,000

TOTAL

\$217

Screening Date 8-Feb-2008

Docket No. 2008-0255-MSW-E

PCW

Respondent Friedman Recycling of El Paso, LP

Policy Revision 2 (September 2002)

Case ID No. 35370

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN105231880

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 3

Rule Cite(s) 30 Tex. Admin. Code § 328.5(c)

Violation Description

Failed to submit a written closure cost estimate to the TCEQ. Specifically, the Respondent did not obtain closure cost estimate prior to beginning operations.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 1

66 Number of violation days

mark only one with an x	daily	
	monthly	
	quarterly	
	semiannual	
	annual	
	single event	x

Violation Base Penalty \$1,000

One single event is recommended.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$3

Violation Final Penalty Total \$1,110

This violation Final Assessed Penalty (adjusted for limits) \$1,110

Economic Benefit Worksheet

Respondent Friedman Recycling of El Paso, LP
Case ID No. 35370
Reg. Ent. Reference No. RN105231880
Media Municipal Solid Waste
Violation No. 3

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$250	4-Dec-2007	28-Feb-2008	0.2	\$3	n/a	\$3
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain closure cost estimate. The Date Required is the investigation date and the Final Date is the date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$250

TOTAL

\$3

Screening Date 8-Feb-2008

Docket No. 2008-0255-MSW-E

PCW

Respondent Friedman Recycling of El Paso, LP

Policy Revision 2 (September 2002)

Case ID No. 35370

PCW Revision January 29, 2008

Reg. Ent. Reference No. RN105231880

Media [Statute] Municipal Solid Waste

Enf. Coordinator Clinton Sims

Violation Number 4

Rule Cite(s) 30 Tex. Admin Code § 330.7(a)

Violation Description

Failed to obtain a permit, registration or alternative compliance for the processing of recyclable material that contains more than incidental amounts of non-recyclable waste. Specifically, the Respondent has processed recyclable material that contained approximately 20% non-recyclable waste since the operations began on April 27, 2007.

Base Penalty \$10,000

>> Environmental, Property and Human Health Matrix

OR

	Harm		
Release	Major	Moderate	Minor
Actual			
Potential			

Percent 0%

>> Programmatic Matrix

Falsification	Major	Moderate	Minor
	x		

Percent 10%

Matrix Notes

100% of the rule requirement was not met.

Adjustment \$9,000

\$1,000

Violation Events

Number of Violation Events 3

66 Number of violation days

mark only one
with an x

daily	
monthly	x
quarterly	
semiannual	
annual	
single event	

Violation Base Penalty \$3,000

Three monthly events are recommended from the December 4, 2007 investigation date to the February 8, 2008 screening date.

Economic Benefit (EB) for this violation

Statutory Limit Test

Estimated EB Amount \$217

Violation Final Penalty Total \$3,329

This violation Final Assessed Penalty (adjusted for limits) \$3,329

Economic Benefit Worksheet

Respondent Friedman Recycling of El Paso, LP

Case ID No. 35370

Reg. Ent. Reference No. RN105231880

Media Municipal Solid Waste

Violation No. 4

Percent Interest	Years of Depreciation
5.0	15

Item Description	Item Cost	Date Required	Final Date	Yrs	Interest Saved	Onetime Costs	EB Amount
No commas or \$							

Delayed Costs

Equipment				0.0	\$0	\$0	\$0
Buildings				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0
Engineering/construction				0.0	\$0	\$0	\$0
Land				0.0	\$0	n/a	\$0
Record Keeping System				0.0	\$0	n/a	\$0
Training/Sampling				0.0	\$0	n/a	\$0
Remediation/Disposal				0.0	\$0	n/a	\$0
Permit Costs	\$5,000	4-Dec-2007	16-Oct-2008	0.9	\$217	n/a	\$217
Other (as needed)				0.0	\$0	n/a	\$0

Notes for DELAYED costs

Estimated cost to obtain a permit. The Date Required is the investigation date and the Final Date is the expected date of compliance.

Avoided Costs

ANNUALIZE [1] avoided costs before entering item (except for one-time avoided costs)

Disposal				0.0	\$0	\$0	\$0
Personnel				0.0	\$0	\$0	\$0
Inspection/Reporting/Sampling				0.0	\$0	\$0	\$0
Supplies/equipment				0.0	\$0	\$0	\$0
Financial Assurance [2]				0.0	\$0	\$0	\$0
ONE-TIME avoided costs [3]				0.0	\$0	\$0	\$0
Other (as needed)				0.0	\$0	\$0	\$0

Notes for AVOIDED costs

Approx. Cost of Compliance

\$5,000

TOTAL

\$217

Compliance History

Customer/Respondent/Owner-Operator: CN603194176 Friedman Recycling of El Paso, LP Classification: AVERAGE Rating: 2.50
Regulated Entity: RN105231880 FRIEDMAN RECYCLING OF EL PASO Classification: AVERAGE Site Rating: 2.50
ID Number(s):
Location: 5835 WREN AVE, EL PASO, TX, 79924 Rating Date: 9/1/2007 Repeat Violator: NO
TCEQ Region: REGION 06 - EL PASO
Date Compliance History Prepared: January 15, 2008
Agency Decision Requiring Compliance History: Enforcement
Compliance Period: January 15, 2003 to January 15, 2008
TCEQ Staff Member to Contact for Additional Information Regarding this Compliance History
Name: Clinton Sims Phone: (512) 239-6933

Site Compliance History Components

1. Has the site been in existence and/or operation for the full five year compliance period? Yes
2. Has there been a (known) change in ownership of the site during the compliance period? No
3. If Yes, who is the current owner? N/A
4. If Yes, who was/were the prior owner(s)? N/A
5. When did the change(s) in ownership occur? N/A

Components (Multimedia) for the Site :

- A. Final Enforcement Orders, court judgements, and consent decrees of the state of Texas and the federal government.
N/A
- B. Any criminal convictions of the state of Texas and the federal government.
N/A
- C. Chronic excessive emissions events.
N/A
- D. The approval dates of investigations. (CCEDS Inv. Track. No.)
1 08/07/2007 (571320)
2 11/07/2007 (600578)
3 01/03/2008 (612312)
- E. Written notices of violations (NOV). (CCEDS Inv. Track. No.)
Date: 08/08/2007 (571320)
Self Report? NO Classification: Major
Citation: 30 TAC Chapter 281, SubChapter A 281.25(a)(1)
Description: Failure to have a multi-sector storm water discharge permit.
- F. Environmental audits.
N/A
- G. Type of environmental management systems (EMSs).
N/A
- H. Voluntary on-site compliance assessment dates.
N/A
- I. Participation in a voluntary pollution reduction program.
N/A
- J. Early compliance.
N/A

Sites Outside of Texas

N/A

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY



**IN THE MATTER OF AN
ENFORCEMENT ACTION
CONCERNING
FRIEDMAN RECYCLING OF EL
PASO, LP
RN105231880**

§
§
§
§
§

**BEFORE THE

TEXAS COMMISSION ON

ENVIRONMENTAL QUALITY**

AGREED ORDER DOCKET NO. 2008-0255-MSW-E

I. JURISDICTION AND STIPULATIONS

At its _____ agenda, the Texas Commission on Environmental Quality ("the Commission" or "TCEQ") considered this agreement of the parties, resolving an enforcement action regarding Friedman Recycling of El Paso, LP ("the Respondent") under the authority of TEX. HEALTH & SAFETY CODE ch. 361 and TEX. WATER CODE ch. 7. The Executive Director of the TCEQ, through the Enforcement Division, and the Respondent appear before the Commission and together stipulate that:

1. The Respondent owns and operates a municipal solid waste recycling facility at 5835 Wren Avenue in El Paso, El Paso County, Texas (the "Facility").
2. The Facility involves or involved the management of municipal solid waste as defined in TEX. HEALTH & SAFETY CODE ch. 361.
3. The Commission and the Respondent agree that the Commission has jurisdiction to enter this Agreed Order, and that the Respondent is subject to the Commission's jurisdiction.
4. The Respondent received notice of the violations alleged in Section II ("Allegations") on or about January 9, 2008.
5. The occurrence of any violation is in dispute and the entry of this Agreed Order shall not constitute an admission by the Respondent of any violation alleged in Section II ("Allegations"), nor of any statute or rule.

6. An administrative penalty in the amount of Thirteen Thousand Eight Hundred Seventy-Two Dollars (\$13,872) is assessed by the Commission in settlement of the violations alleged in Section II ("Allegations"). The Respondent has paid Four Hundred Twenty-Three Dollars (\$423) of the administrative penalty and Two Thousand Seven Hundred Seventy-Four Dollars (\$2,774) is deferred contingent upon the Respondent's timely and satisfactory compliance with all the terms of this Agreed Order. If the Respondent fails to timely and satisfactorily comply with all requirements of this Agreed Order, including the payment schedule, the Executive Director may require the Respondent to pay all or part of the deferred penalty.

The remaining amount of Ten Thousand Six Hundred Seventy-Five Dollars (\$10,675) of the administrative penalty shall be payable in 35 monthly payments of Three Hundred Five Dollars (\$305) each. The next monthly payment shall be paid within 30 days after the effective date of this Agreed Order. The subsequent payments shall each be paid not later than 30 days following the due date of the previous payment until paid in full. If the Respondent fails to timely and satisfactorily comply with the payment requirements of this Agreed Order, the Executive Director may, at the Executive Director's option, accelerate the maturity of the remaining installments, in which event the unpaid balance shall become immediately due and payable without demand or notice. In addition, the failure of the Respondent to meet the payment schedule of this Agreed Order constitutes the failure by the Respondent to timely and satisfactorily comply with all the terms of this Agreed Order.

7. Any notice and procedures, which might otherwise be authorized or required in this action, are waived in the interest of a more timely resolution of the matter.
8. The Executive Director of the TCEQ and the Respondent have agreed on a settlement of the matters alleged in this enforcement action, subject to the approval of the Commission.
9. The Executive Director recognizes that the Respondent submitted to the TCEQ an acceptable closure cost estimate on February 28, 2008.
10. The Executive Director may, without further notice or hearing, refer this matter to the Office of the Attorney General of the State of Texas ("OAG") for further enforcement proceedings if the Executive Director determines that the Respondent has not complied with one or more of the terms or conditions in this Agreed Order.
11. This Agreed Order shall terminate five years from its effective date or upon compliance with all the terms and conditions set forth in this Agreed Order, whichever is later.
12. The provisions of this Agreed Order are deemed severable and, if a court of competent jurisdiction or other appropriate authority deems any provision of this Agreed Order unenforceable, the remaining provisions shall be valid and enforceable.

II. ALLEGATIONS

As owner and operator of the Facility, the Respondent is alleged to have:

1. Failed to establish and maintain financial assurance for the closure of a recycling facility that stores combustible material (plastics, newspaper and cardboard) outdoors, in violation of 30 TEX.

ADMIN. CODE §§ 37.921 and 328.5(d), as documented during an investigation conducted on December 4, 2007. Specifically, the Respondent did not have financial assurance at the time of the investigation.

2. Failed to have a fire prevention and suppression plan, in violation of 30 TEX. ADMIN. CODE § 328.5(h), as documented during an investigation conducted on December 4, 2007. Specifically, the Respondent managed combustible materials (plastic, newspaper and cardboard) and did not have a fire prevention and suppression plan at the time of the investigation.
3. Failed to submit a written closure cost estimate to the TCEQ, in violation of 30 TEX. ADMIN. CODE § 328.5(c), as documented during an investigation conducted on December 4, 2007. Specifically, the Respondent did not submit a written closure cost estimate prior to beginning operations.
4. Failed to obtain a permit, registration or alternative compliance for the processing of recyclable material that contains more than incidental amounts of non-recyclable waste, in violation of 30 TEX. ADMIN. CODE § 330.7(a), as documented during an investigation conducted on December 4, 2007. Specifically, the Respondent has processed recyclable material that contained approximately 20% non-recyclable waste since the operations began on April 27, 2007.

III. DENIALS

The Respondent generally denies each allegation in Section II ("Allegations").

IV. ORDERING PROVISIONS

1. It is, therefore, ordered by the TCEQ that the Respondent pay an administrative penalty as set forth in Section I, Paragraph 6 above. The payment of this administrative penalty and the Respondent's compliance with all the terms and conditions set forth in this Agreed Order resolve only the allegations in Section II. The Commission shall not be constrained in any manner from requiring corrective action or penalties for violations which are not raised here. Administrative penalty payments shall be made payable to "TCEQ" and shall be sent with the notation "Re: Friedman Recycling of El Paso, LP, Docket No. 2008-0255-MSW-E" to:

Financial Administration Division, Revenues Section
Attention: Cashier's Office, MC 214
Texas Commission on Environmental Quality
P.O. Box 13088
Austin, Texas 78711-3088

2. It is further ordered that the Respondent shall undertake the following technical requirements:
 - a. Within 60 days after the effective date of this Agreed Order:
 - i. Submit documentation that demonstrates acceptable financial assurance for the closure of the Facility, in accordance with 30 TEX. ADMIN. CODE §§ 328.5(d) and 37.921 to:

Financial Assurance Team, MC 184
Texas Commission on Environmental Quality
P.O. Box 13807
Austin, Texas 78711-3087

- ii. Develop and implement a fire prevention and suppression plan that shall be made available to the local fire prevention authority having jurisdiction over the Facility for review and coordination, in accordance with 30 TEX. ADMIN. CODE § 328.5(h);
- iii. Obtain a permit, registration or alternative compliance for the processing of recyclable material that contains more than incidental amounts of non-recyclable waste, in accordance with 30 TEX. ADMIN CODE §§ 330.7(a) and 328.4;

Submit documentation, including docket number, for Ordering Provisions Nos. 2.a.i. through 2.a.iii. to:

Municipal Solid Waste Permits Section, MC 124
Texas Commission on Environmental Quality
P.O. Box 13807
Austin, Texas 78711-3087

and

Waste Section, Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

- b. Within 75 days after the effective date of this Agreed Order, submit written certification as described below, and include detailed supporting documentation including photographs, receipts, and/or other records to demonstrate compliance with Ordering Provisions Nos. 2.a.i. through 2.a.iii.

The certification shall be notarized by a State of Texas Notary Public and include the following certification language:

"I certify under penalty of law that I have personally examined and am familiar with the information submitted and all attached documents, and that based on my inquiry of those individuals immediately responsible for obtaining the information, I believe that the submitted information is true, accurate and complete. I am aware that there are significant penalties for submitting false information, including the possibility of fine and imprisonment for knowing violations."

The certification shall be submitted to:

Order Compliance Team
Enforcement Division, MC 149A
Texas Commission on Environmental Quality
P.O. Box 13087
Austin, Texas 78711-3087

with a copy to:

Waste Section, Manager
El Paso Regional Office
Texas Commission on Environmental Quality
401 East Franklin Avenue, Suite 560
El Paso, Texas 79901-1206

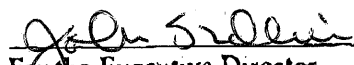
3. The provisions of this Agreed Order shall apply to and be binding upon the Respondent. The Respondent is ordered to give notice of the Agreed Order to personnel who maintain day-to-day control over the Facility operations referenced in this Agreed Order.
4. If the Respondent fails to comply with any of the Ordering Provisions in this Agreed Order within the prescribed schedules, and that failure is caused solely by an act of God, war, strike, riot, or other catastrophe, the Respondent's failure to comply is not a violation of this Agreed Order. The Respondent shall have the burden of establishing to the Executive Director's satisfaction that such an event has occurred. The Respondent shall notify the Executive Director within seven days after the Respondent becomes aware of a delaying event and shall take all reasonable measures to mitigate and minimize any delay.
5. The Executive Director may grant an extension of any deadline in this Agreed Order or in any plan, report, or other document submitted pursuant to this Agreed Order, upon a written and substantiated showing of good cause. All requests for extensions by the Respondent shall be made in writing to the Executive Director. Extensions are not effective until the Respondent receives written approval from the Executive Director. The determination of what constitutes good cause rests solely with the Executive Director.
6. This Agreed Order, issued by the Commission, shall not be admissible against the Respondent in a civil proceeding, unless the proceeding is brought by the OAG to: (1) enforce the terms of this Agreed Order; or (2) pursue violations of a statute within the Commission's jurisdiction, or of a rule adopted or an order or permit issued by the Commission under such a statute.
7. This agreement may be executed in multiple counterparts, which together shall constitute a single original instrument. Any executed signature page to this Agreement may be transmitted by facsimile transmission to the other parties, which shall constitute an original signature for all purposes.
8. Under 30 TEX. ADMIN. CODE § 70.10(b), the effective date is the date of hand-delivery of the Order to the Respondent, or three days after the date on which the Commission mails notice of the Order to the Respondent, whichever is earlier. The Chief Clerk shall provide a copy of this Agreed Order to each of the parties.

Friedman Recycling of El Paso, LP
DOCKET NO. 2008-0253-MSW-E
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SIGNATURE PAGE

TEXAS COMMISSION ON ENVIRONMENTAL QUALITY

For the Commission



For the Executive Director

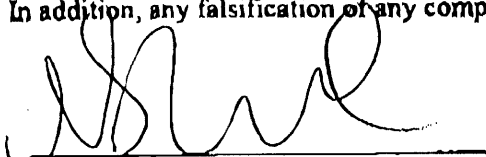
8/25/2008
Date

I, the undersigned, have read and understand the attached Agreed Order. I am authorized to agree to the attached Agreed Order on behalf of the entity indicated below my signature, and I do agree to the terms and conditions specified therein. I further acknowledge that the TCEQ, in accepting payment for the penalty amount, is materially relying on such representation.

I also understand that failure to comply with the Ordering Provisions, if any, in this order and/or failure to timely pay the penalty amount, may result in:

- A negative impact on compliance history;
- Greater scrutiny of any permit applications submitted;
- Referral of this case to the Attorney General's Office for contempt, injunctive relief, additional penalties, and/or attorney fees, or to a collection agency;
- Increased penalties in any future enforcement actions;
- Automatic referral to the Attorney General's Office of any future enforcement actions; and
- TCEQ seeking other relief as authorized by law.

In addition, any falsification of any compliance documents may result in criminal prosecution.



Signature

8-13-2008
Date

DAVID FRIEDMAN

Name (Printed or typed)
Authorized Representative of
Friedman Recycling of El Paso, LP

V.P.

Title

Instructions: Send the original, signed Agreed Order with penalty payment to the Financial Administration Division, Revenues Section at the address in Section IV, Paragraph 1 of this Agreed Order.

